

# Bill as Introduced

HB 1327 - AS INTRODUCED

2012 SESSION

12-2033

04/10

HOUSE BILL            **1327**

AN ACT                relative to official oppression.

SPONSORS:            Rep. Itse, Rock 9; Rep. Ingbretson, Graf 5; Rep. D. McGuire, Merr 8

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill revises the offense of official oppression by making it either a class B misdemeanor or a violation, depending on whether a public servant acted with a purpose to benefit oneself or another or to harm another.

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Explanation:        Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through.~~]  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twelve*

AN ACT                   relative to official oppression.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1           1 Intent. The intent of the official oppression statute is to empower citizens to hold public  
2 servants accountable in their delegated duties pursuant to the Constitution of New Hampshire, part  
3 I, articles 8 and 10.

4           2 Official Oppression. Amend RSA 643:1 to read as follows:

5           643:1 Official Oppression.

6           ***I. A public servant, as defined in RSA 640:2, II, is guilty of a misdemeanor if, with a purpose***  
7 ***to benefit ~~himself~~ oneself or another or to harm another, he or she knowingly commits an***  
8 ***unauthorized act which purports to be an act of his or her office; or knowingly refrains from***  
9 ***performing a duty imposed on him or her by law or clearly inherent in the nature of his or her***  
10 ***office.***

11           ***II. A public servant, as defined in RSA 640:2, II, is guilty of a violation if, without a***  
12 ***purpose to benefit oneself or another or to harm another, he or she purposely commits an***  
13 ***unauthorized act which purports to be an act of his or her office; or purposely refrains***  
14 ***from performing a duty imposed upon him or her by law.***

15           3 Effective Date. This act shall take effect January 1, 2012.

# Amendments

Rep. Kreis, Merr. 6  
Rep. D. McGuire, Merr. 8  
February 16, 2012  
2012-0873h  
04/09

Amendment to HB 1327

1 Amend the bill by replacing section 2 with the following:

2

3 2 Official Oppression. Amend RSA 643:1 to read as follows:

4 643:1 Official Oppression.

5 *I. A public servant, as defined in RSA 640:2, II, is guilty of a misdemeanor if, with a purpose*  
6 *to benefit himself, herself, or another or to harm another, he or she knowingly commits an*  
7 *unauthorized act which purports to be an act of his or her office; or knowingly refrains from*  
8 *performing a duty imposed on him or her by law or clearly inherent in the nature of his or her*  
9 *office.*

10 *II. A public servant, as defined in RSA 640:2, II, is guilty of a violation if, without a*  
11 *purpose to benefit himself, herself, or another or to harm another, he or she purposely*  
12 *commits an unauthorized act which purports to be an act of his or her office; or purposely*  
13 *refrains from performing a duty imposed upon him or her by law.*

14 *III. Any county attorney or law enforcement officer receiving notice of any alleged*  
15 *violation of this section shall immediately forward written notice of the same with any*  
16 *other information that the county attorney or law enforcement officer may have to the*  
17 *department of justice.*

Amendment to HB 1327  
- Page 2 -

2012-0873h

AMENDED ANALYSIS

This bill revises the offense of official oppression by making it either a class B misdemeanor or a violation, depending on whether a public servant acted with a purpose to benefit himself, herself, or another or to harm another.

# Speakers





# Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1327

**BILL TITLE:** relative to official oppression.

**DATE:** February 16, 2012

**LOB ROOM:** 204      **Time Public Hearing Called to Order:** 1:45 p.m.

**Time Adjourned:** 3:50 p.m.

(please circle if present)

**Committee Members:** Reps. Swinford, Gagne, Welch, Fields, Fesh, Charron, Villeneuve, Antosz, Greazzo, Kreis, Parsons, Tasker, Warden, Pantelakos, Berube, Shurtleff and Ginsburg.

**Bill Sponsors:** Rep. Itse, Rock 9; Rep. Ingbretson, Graf 5; Rep. D. McGuire, Merr 8

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

**Rep. Dan Itse - Sponsor - Supports.** Explained the content of the bill.

**Rep. Lars Christiansen - Supports.**

**Joe Haas - Supports bill.** No written testimony. Has written testimony in HB 1514 line 3.

**Rep. Dan McGuire - Provided copies of emails.**

**Deputy Atty. Ann Rice Attorney Generals Office - Oppose.** Had to leave.

**David Fiorentino - Supports.** Had a problem building a garage. Has a problem with a Town official, who is a friend of his neighbor, who wanted to purchase his property.

**Bob Dubrowski - Supports.**

**Per Garp - Loudon - Supports - Complaining about storage space at state warehouse.**

**Subcommittee: Rep. Ken Kreis, Chair, Rep. Parsons, Rep. Tasker, Rep. Warden and Rep. Ginsburg.**

Respectfully Submitted:



Rep. Gene Charron, Clerke

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 1327

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(please circle if present)

Committee Members: Reps. Swinford, Gagne, Welch, Fields, Fesh, Charron, Villeneuve, Antosz, Greazzo, Kreis, Parsons, Tasker, Warden, Pantelakos, Berube, Shurtleif and Ginsburg.

Bill Sponsors: Rep. Itse, Rock 9; Rep. Ingbretson, Graf 5; Rep. D. McGuire, Merr 8

TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

1:45 support: Rep. Dan Dase sponsor explained the intent of the bill.

support 2:00 Rep. Lars Christensen

2:15 Joe Haas - supports bill - no written testimony, Has written testimony in HB 1514 line 3.

220 Rep. Dan McGuire - provided copies of emails.

Had to leave oppose Ann Rice Dep ~~Sec~~ Attorney General office.

2:30 support David Fiorentino, had a problem building a garage. Has a problem with a Town official - who is a friend of his neighbor, who wanted to purchase his property.

2:35 support Bob Dubrowski

2:40 support Per GARP Complaining about storage space at state warehouse closed - 3:50

Sub Comm -

Chair - Ken Kreis's  
Parsons

1 asker

Warden

Cumyberg

# Sub-Committee Actions

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY  
SUBCOMMITTEE WORK SESSION ON HB 1327

**BILL TITLE:** relative to official oppression.

**DATE:** February 21, 2012

**Subcommittee Members:** Reps. Kreis, Chairman, Tasker and Warden

**Comments and Recommendations:** Amendment

**Amendments:**

Sponsor: Rep. Ken Kreis/McGuire	OLS Document #:	2012	0873h
Sponsor: Rep.	OLS Document #:		
Sponsor: Rep.	OLS Document #:		

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Mark Warden

Seconded by Rep. Kyle J. Tasker

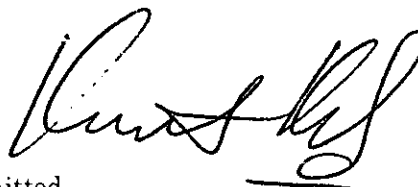
Vote: 3-0

**Motions:** OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:



Respectfully submitted,

Rep. Kenneth Kreis, Subcommittee Chairman  
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON HB 1327

BILL TITLE: relative to official oppression.


DATE: 2-21-12

Subcommittee Members: Reps. KREIS, TASKER, WARDON

Comments and Recommendations:

2012-08734

Amendments:

Sponsor: Rep. KREIS, MCGUIRE OLS Document #: 

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep. WARDON

Seconded by Rep. TASKER

Vote: 3-0

Motions: Recommended or Not Recommended for Future Legislation (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep. 

Subcommittee Chairman/Clerk



# Testimony

HB 1327

**From:** Joseph W. Mollica [mailto:[joseph.mollica@liquor.state.nh.us](mailto:joseph.mollica@liquor.state.nh.us)]  
**Sent:** Friday, December 02, 2011 2:30 PM  
**To:** Michael Fairbrother; Brokers; FHW-Flag Hill Winery; JTV-Jewell Towne Vineyards; LaBelle Winery--Amy LaBelle; English, Lisa  
**Cc:** Michael R. Milligan; Mark M. Bodi; Eddie Edward; Kathleen McCabe; Berniece Van Der Berg; Nicole A. Brassard; James H. Barbuti; John D. Bunnell  
**Subject:** RE: Liz 401.02

*Michael,*

*Our interpretation is that this issue remains a Commission decision, based on the space available in our NHLC warehouse in Concord and provides provisions for (non-exempt) in all contracted warehouses and for all contracted transportation.*

*Based on our statutory requirement to maximize profits, we would have to remove an item that pays Bailment to and Profits the State Taxpayers in order to provide bailment to you free of charge. This is not a prudent business decision and one I would not be in favor of.*

*Sincerely,*

*Joe M*

*Joseph W. Mollica*  
Chairman  
NH Liquor Commission  
603-230-7005

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**From:** Michael Fairbrother [mailto:[fairbrother@moonlightmeadery.com](mailto:fairbrother@moonlightmeadery.com)]  
**Sent:** Friday, December 02, 2011 9:32 AM  
**To:** Joseph W. Mollica  
**Cc:** Michael R. Milligan; Mark M. Bodi; Eddie Edwards; Kathleen McCabe; Berniece Van Der Berg  
**Subject:** Re: Liq 401.02

Joe,

As I understand this is good news.

I can request my products that I sell to the my largest licensees in the state to be listed in the NHSLC warehouse, where I will deliver the product, the licensees will pick up the costs of shipping, handling, and ordering as they would for any other products they purchase from the commission?

Michael Fairbrother  
Moonlight Meadery LLC

On 12/1/2011 5:17 PM, Joseph W. Mollica wrote:

*Ladies/Gentleman,*

*Below is the interpretation we have received from the Attorney Generals office in reference to Liq 401.02.*

*Thank you,*

*Joe M*

①

Joe,

*I am writing in regard to your request for an interpretation of when bailment fees apply to NH wine and liquor manufacturers under Liq 401.02.*

*Under Liq 401.02 (a), bailment warehouse(s) fees are paid by vendors unless exempted by statute or rule. Liq 401.02(c) discusses what fees are charged by NHSLC with regard to NHSLC owned warehouses. Liq 401.02(c) requires that NHSLC charge vendors the same fees as are charged by non-NHSLC bailment warehouses. Liq 401.02 (c) exempts NH liquor and wine manufacturers who fulfill certain described requirements from paying the charges described in Liq 401.02(c) only. The exemption in Liq 401.02(c) does not apply or address fees described in Liq 401.02(a)-(b).*

*In other words, in-state wine or liquor manufacturers do not have to pay fees that would otherwise be charged for inventory held at NHSLC warehouses only. This provision does not exempt NH manufacturers from paying bailment for inventory at non-NHSLC warehouses, nor does it exempt NH manufacturers from paying fees for services such as delivery and/or transportation provided by the contracted bailment warehouse(s) and/or other contractors.*

*Please feel free to email or call if I can provide any additional clarification.*

*Thank you,*

*Lisa  
Lisa M. English  
Assistant Attorney General  
[Lisa.English@doj.nh.gov](mailto:Lisa.English@doj.nh.gov)  
Office of the NH Attorney General  
Civil Bureau  
33 Capitol Street  
Concord, NH 03301  
Tel. 603-271-3650  
Fax. 603-223-6247*

*Joseph W. Mollica  
Chairman  
NH Liquor Commission  
50 Storrs Street  
PO Box 503  
Concord, NH 03302-0503  
Tel: 603-230-7005  
Fax: 603-271-1107*

Liq 401.01 Definition of Terms. For this chapter only, the following terms shall be construed as set forth below:

- (a) "Bailment" means a system providing for delivery of vendor owned liquor and wine by the vendor's agent at a NHSLC owned or licensed liquor and wine warehouse for transfer to state owned liquor stores or retail licensees.
- (b) "Bailment warehouse" means the holder of a NH liquor and wine warehouse license under contract to the NHSLC to provide bailment services, or the NHSLC or contracted agent providing such services at NHSLC owned warehouse facilities.
- (c) "Acceptable payment" means payment by cash, approved credit card, approved debit card, or pre-approved check.
- (d) "Approved credit" means a sale on terms pursuant to Liq 900.

Source. (See Revision Note at chapter heading for Liq 400) #5043, eff 1-11-91; ss by #5180, eff 7-22-91; rpld by #6391, eff 11-28-96; ss by #7258, eff 5-2-00; ss by #8243, eff 12-31-04

Liq 401.02 Bailment Warehouse Fees.

- (a) Bailment warehouse fees shall be paid by vendors unless exempted by statute or rule. Vendor fees for bailment warehouse services shall be specified by contract between the NHSLC and the bailment warehouse(s).
- (b) Contracted fees shall be charged to all vendors equally by the bailment warehouse(s).
- (c) The NHSLC shall charge the same fees as contracted in (b) above at NHSLC owned warehouses except that no fee shall be charged on liquor and wine products manufactured in NH by any vendor who:
  - (1) Is licensed as a liquor manufacturer pursuant to RSA178:6, a rectifier pursuant to RSA178:7, or a wine manufacturer pursuant to RSA178:8;
  - (2) Maintains a federally bonded liquor warehouse in the state; and
  - (3) Maintains an inventory equal to 30 days average sales for each brand code registered with the commission.
- (d) The NHSLC shall make available to vendors the contracted fees charged by bailment warehouse(s).

Source. #7258, eff 5-2-00; ss by #8243, eff 12-31-04

Liquor Rules

# Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1327

**BILL TITLE:** relative to official oppression.

**DATE:** February 16, 2012

**LOB ROOM:** 204

Amendments:

Sponsor: Rep. Kenneth Kreis OLS Document #: 2012 0873h

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Kenneth Kreis

Seconded by Rep. Dennis H. Fields

Vote: (Please attach record of roll call vote.)

Motions: ~~OTP~~ OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Kenneth Kreis

Seconded by Rep. Mark Warden

Vote: 15-1 (Please attach record of roll call vote.)

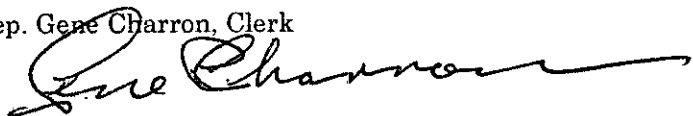
**CONSENT CALENDAR VOTE: 15-1**

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Gene Charron, Clerk



HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 1327

BILL TITLE: relative to official oppression.

DATE: 2-16-2012

LOB ROOM: 204

Amendments:

Sponsor: Rep. *KREIS*

OLS Document #: 2012-0873 h.

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTPA, ITL, Interim Study (Please circle one.)

Moved by Rep. *Kreis*

Seconded by Rep. *Fields*

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTPA, ITL, Interim Study (Please circle one.)

Moved by Rep. *Kreis*

Seconded by Rep. *Ward*

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

*Consent.*

Statement of Intent: Refer to Committee Report

Respectfully submitted;

*Gene Charron*  
Rep. Gene Charron, Clerk

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB 1327 Title: Relative to official oppression

PH Date: 02 / 16 / 12

Exec Session Date:      /      /     

Motion: amendment

Amendment #: 2012-0873 h

MEMBER	YEAS	NAYS
Swinford, Elaine B, Chairman	✓	
Gagne, Larry G, V Chairman	✓	
Welch, David A	✓	
Fields, Dennis H	✓	
Fesh, Robert M	✓	
Charron, Gene P, Clerk	✓	
Villeneuve, Moe	✓	
Antosz, Jason P	✓	
Greazzo, Phil J	✓	
Kreis, Kenneth	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J	✓	
Warden, Mark	✓	
Pantelakos, Laura C	✓	
Berube, Roger R	✓	
Shurtleff, Stephen J	✓	
Ginsburg, Philip E	✓	
	16	0
TOTAL VOTE:		



CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: HB-1327 Title: Relative to official oppression

PH Date: 02 / 16 / 2012

Exec Session Date: 2 / 23 / 12

Motion: OTPA -

Amendment #: 2012-08734

MEMBER	YEAS	NAYS
Swinford, Elaine B, Chairman	✓	
Gagne, Larry G, V Chairman	✓	
Welch, David A	✓	
Fields, Dennis H	✓	
Fesh, Robert M	✓	
Charron, Gene P, Clerk	✓	
Villeneuve, Moe	✓	
Antosz, Jason P	✓	
Greazzo, Phil J		
Kreis, Kenneth	✓	
Parsons, Robbie L	✓	
Tasker, Kyle J	✓	
Warden, Mark	✓	
Pantelakos, Laura C	✓	
Berube, Roger R		✓
Shurtleff, Stephen J	✓	
Ginsburg, Philip E	✓	
	15	1

TOTAL VOTE:

Printed: 12/21/2011

# Committee Report

**CONSENT CALENDAR**

**February 23, 2012**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB1327,

AN ACT relative to official oppression. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

**Rep. Kenneth Kreis**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>CRIMINAL JUSTICE AND PUBLIC SAFETY</b>
Bill Number:	<b>HB1327</b>
Title:	<b>relative to official oppression.</b>
Date:	<b>February 23, 2012</b>
Consent Calendar:	<b>YES</b>
Recommendation:	<b>OUGHT TO PASS WITH AMENDMENT</b>

### STATEMENT OF INTENT

This bill revises the offense of official oppression by making it either a Class B misdemeanor or a violation, depending on whether a public servant acted with a purpose to benefit himself, herself, or another, or to harm another. Further, it establishes a chain of notice once the alleged violation is received

Vote 15-1.

Rep. Kenneth Kreis  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

**CONSENT CALENDAR**

**CRIMINAL JUSTICE AND PUBLIC SAFETY**

**HB1327**, relative to official oppression. **OUGHT TO PASS WITH AMENDMENT.**

Rep. Kenneth Kreis for **CRIMINAL JUSTICE AND PUBLIC SAFETY**. This bill revises the offense of official oppression by making it either a Class B misdemeanor or a violation, depending on whether a public servant acted with a purpose to benefit himself, herself, or another, or to harm another. Further, it establishes a chain of notice once the alleged violation is received **Vote 15-1.**

Original: House Clerk  
Cc: Committee Bill File

HB 1327 relative to official oppression.

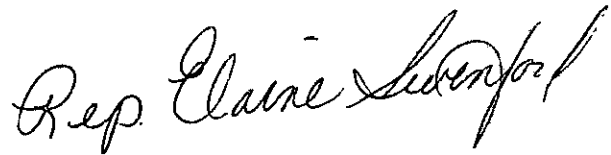
OTPW/A #0873h

15-1

CC

This bill revises the offense of official oppression by making it either a Class B misdemeanor or a violation, depending on whether a public servant acted with a purpose to benefit himself, herself, or another, or to harm another. Further, it establishes a chain of notice once the alleged violation is received.

Rep. Kreis,  
For the Committee

A handwritten signature in cursive script, reading "Rep. Elaine Swenford". The signature is written in dark ink and is positioned to the right of the typed name "Rep. Kreis, For the Committee".

COMMITTEE REPORT

COMMITTEE: Criminal Justice & Public Safety  
BILL NUMBER: HB 1327  
TITLE: Relative to official oppression

DATE: 2-23-12 CONSENT CALENDAR: YES  NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2<sup>nd</sup> year of biennium)

Amendment No.  
2012-08734

STATEMENT OF INTENT:

This bill revises the offense of official oppression by making it either a class B misdemeanor or a violation, depending on whether a public servant acted with a purpose to benefit himself, herself, or another or to harm another. Further it establishes a chain of notice once the alleged violation is received.

COMMITTEE VOTE: 15-1 Rep. Elaine Swanson

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Keith Henderson  
For the Committee